IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

MFA.No. 658 of 2001(B)

AGAINST OPMV.1853/1995 OF THE MOTOR ACCIDENT CLAIMS TRIBUNAL, PERUMBAVOOR
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APPELLANT/3RD RESPONDENT:

THE ORIENTAL INSURANCE CO. LTD.,
CHALAKUDY NOW REPRESENTED BY ITS
ASSISTANT MANAGER, REGIONAL OFFICE,
METRO PALACE, KOCHI-18.

BY ADV. SRI.MATHEWS JACOB

RESPONDENTS/PETITIONERS:
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1. LILLY VARKEY, W/O.LATE VARKEY,
VEMBLIYATH HOUSE, ANGAMALY.

2. BENNY, S/O.LATE VARKEY, DO. DO.

3. MARTIN, S/O.LATE VARKEY, DO. DO.

4. SHINY, D/O. LATE VARKEY, DO. DO.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 658 of 2001

Dated this the 10th day of December, 2007.

JUDGMENT

Koshy, J:

The Insurance Company filed this appeal challenging the compensation awarded in O.P.(MV) No.1853 of 1995 on the file of the Motor Accidents Claims Tribunal, Perumbavoor. A retired K.S.R.T.C. Driver sustained fatal injuries in an accident and his legal representatives (wife and 3 children) applied for compensation. The Tribunal awarded a total compensation of Rs.1,39,000/-. The Insurance Company challenges the quantum of compensation awarded.

2. The main ground of attack is that the Tribunal has taken 11 as the multiplier even though deceased was 57 years old and, as per second schedule, for a 57 year old man, the multiplier is 8. We note that the Tribunal fixed Rs.1500/- as the monthly income and then deducted 1/3rd for personal expenses and only Rs.1000/- was taken as his family contribution. The Tribunal has taken 11 as the multiplier because in the post-mortem certificate his age was shown as 54.

There is no dispute that at the age of 55 a driver in the KSRTC will retire. But, thereafter, he can drive private vehicle and earn money. It has come out in evidence that he was employed as a professional driver after retirement also. An experienced heavy vehicle driver will get more than Rs.3000/- per month. The Tribunal has only taken Rs.1500/- as his monthly income and Rs.1000/- as the dependency income. Since low multiplier was taken, we are of the view that no interference is required, especially claimants did not file any appeal challenging the award. In any event, considering the total amount of compensation awarded, we are of the view that only just and reasonable compensation was awarded and no interference is required in the award at the instance of the Insurance Company.

Appeal is dismissed.

J.B.KOSHY,
JUDGE.

K. HEMA,
JUDGE.

Krs.

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 658 of 2001

Dated this the 10th day of December, 2007.

JUDGMENT